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M E M O R A N D U M   PATENT MATTERS PENDING  
with  
Crane Co., Chicago, Ill.

1. We have received word from Crane Co. (See correspondence attached) with reference to an infringement on their patent where our No.272 C.W.& O'flow construction is concerned. The point in question lies in the two bends in the Lift Rod for the purpose of centering this rod in the Overflow Tube.
2. Crane Co. has also written to us (See correspondence attached) with regard to the possibility of our No.20 Plug construction being in conflict with Schaible's Patent No.2,278,566. The point in question here is the outer steel cup shaped flange.

Under date of Feb. 25 I went to Chicago and had a very pleasant interview with J.O.Lange, Engineer of Patents. The upshot of this meeting was that Crane Co. would consider what kind of a proposition they would make us to enable us to continue using the present No.262 construction. I agreed that we would check the matter of possible patent conflict with Schaible and would let Lange know.

It is important to know in connection with the foregoing that Crane Co. is not using very many of our No.272's, for the reason that they would rather push their own Trip Lever Waste. A different situation exists, however, with respect to the No.20 Plug. In this case the Purchasing Department is waiting for authority from Lange to continue the purchase of this item from us. If the patent matter is cleared up to Crane's satisfaction, then purchases will be resumed.

On Friday, March 5, by appointment I visited the Law Firm of Lee J. Gary, Chicago, and had a very good interview with Mr. W. F. Desmond. Mr. Desmond is quite familiar with Frost Co., having done business with W.J.Frost several years ago. Both Crane situations were presented to Mr. Desmond and by mutual agreement he is going to do the following:

No.272 Waste

1. Check the Crane patent to see how strong a case they could make as to our infringement.
2. Advise us whether to agree completely with Crane Company's claims, also whether or not to accept the proposition which will doubtless be received from Crane in a short while.
3. Make a search of the Patent Files to see whether or not our "Dial" would lend itself to a design patent.
4. Patent search to see whether or not the fork and cam action back of the Dial could be patented.
5. Patent search to see whether telescoping construction of rod and sleeve in Bottom Ball Assembly could be patented.

No.20 Plug

1. We gave Mr. Desmond a copy of the Schaible Patent and he is going to check this for dates and validity. He had a patent search made for W.J.F. on the same item at about the time that Schaible was granted a patent. He will advise later about that.
2. He will give thought to the advisability of seeking patent on our new design of basket.

M.C.F.

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Met with Mr. Desmond in his office. His advice regarding the Crane claim of infringement was to admit the infringement. Crane has three claims that they could bring against us, only one of which seems to be sure. This "sure" claim relates to the undulations in the Lift Rod put there for the purpose of keeping the rod centrally in the overflow tube.

I explained to Mr. Desmond that Crane was asking us to pay 5% royalty on all past and future production of the No.272 Waste and that this was entirely out of line with our general profit margin. Desmond's reply was that 5% royalty was the usual first offer in Patent Attorney language.

With regard to the Schaible strainer, Desmond was of the opinion that we would come out all right on this item. He is making a search of the Schaible application to see if Schaible had any citations. We will hear from him later.

Met with Mr. Lange, Patent Attorney of the Crane Co., and told him that we were quite astonished to receive his letter suggesting a 5% royalty. I stated we felt that the infringement was very minor and had only expected Crane Co. to request recognition of their patent and possibly some very small financial consideration. I further stated if we could make 10% on our line of Plumbing Brass Goods that we would be very happy and that we could not afford to pay a 5% royalty. Mr. Lange said he thought it was high too and would check the matter up again and communicate with us.

I explained to Mr. Lange, Mr. Desmond's contention in regard to the Schaible patent, and Mr. Lange seemed to be quite pleased with his findings. After going over the matter in detail he expressed the opinion that he believed Desmond was right. However, it may be necessary for us to write Crane Co. an assurance that we will protect them in case of patent suit.

We should have final decision from Mr. Desmond on the Schaible patent in the near future.

We will await word from Lange in regard to royalty on our No.272 Waste. However, if Crane does not suggest reasonable terms, then perhaps we should change our construction to avoid infringement.